

MASTER PARKING FACILITIES OPERATING AND EASEMENT AGREEMENT

BY

THE BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO,

AND

RIVERBANKS RENAISSANCE, LLC

DATED NOVEMBER 23, 2007

TABLE OF CONTENTS

1.	Definitions.....	2
2.	Term.....	8
3.	Use and Management of Parking Facilities Generally.....	8
3.1	Use.....	8
3.2	Management.....	9
4.	Special Rights of Master Developer.....	10
4.1	Dedicated Parking Spaces.....	10
4.2	Available Office Parking Spaces.....	11
4.3	Short-Term Parking.....	11
4.4	Valet Parking.....	12
4.5	Conflicts with Reds.....	12
4.6	Conflicts with Bengals.....	13
4.7	Joinder.....	13
4.8	Federal Requirements.....	14
5.	Developer's Share of Operating Expenses.....	14
5.1	Annual Statements.....	14
5.2	Monthly Payments.....	15
5.3	Adjustment for Taxes.....	15
5.4	Audit Rights.....	15
6.	Default and Remedies.....	15
6.1	Default Notices.....	15
6.2	Enforcement.....	16
6.3	Self-Help.....	16
7.	Dispute Resolution.....	16
7.1	Negotiated Settlement.....	17
7.2	Mediation.....	17
7.3	No Prejudice.....	17
8.	Estoppel Certificates.....	18
9.	Notices.....	18
10.	No Partnership.....	19
11.	Governing Law.....	19
12.	Jurisdiction.....	20
13.	Severability.....	20
14.	Diligent Performance.....	20
15.	Entirety of Agreement.....	20
16.	Successors and Assigns.....	20
17.	Captions.....	20
18.	Exhibits.....	20
19.	No Waiver.....	20
20.	Construction.....	21
22.	Third Party Beneficiaries.....	21
23.	Release from Liability.....	21

MASTER PARKING FACILITIES OPERATING AND EASEMENT AGREEMENT

THIS MASTER PARKING FACILITIES OPERATING AND EASEMENT AGREEMENT (this "Agreement") is made as of the 23rd day of November, 2007, by THE BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO, acting for and on behalf of Hamilton County, Ohio, a political subdivision of the State of Ohio (the "County"), and RIVERBANKS RENAISSANCE, LLC, a Delaware limited liability company ("Master Developer").

Recitals

A. The County and the City of Cincinnati, Ohio, an Ohio municipal corporation (the "City"), collectively own the fee simple interest in the following real property situated in the City of Cincinnati, Hamilton County, Ohio:

Lots 1, 2, 4, 5, 6, 8, 10, 11, and 13 of The Banks Phase II, as the same are numbered and delineated on the recorded plat thereof, of record in Plat Book 387, Pages 43-45, Recorder's Office, Hamilton County, Ohio.

B. The County and the City intend to replat certain of such lots, together with portions of Theodore M. Berry Way and Race Street, into Lot 1A, Lot 1B, Lot 2A, Lot 2B, Lot 16A, Lot 16B, Lot 20A, Lot 20B, Lot 21, Lot 22, Lot 23A, Lot 23B, Lot 24A, Lot 24B, Lot 25A, Lot 25B, Lot 26A, Lot 26B, Lot 27, and Lot 28, as depicted in Exhibit A hereto (the "Proposed Replat").

C. The County intends to develop and construct intermodal parking facilities (the "Banks Parking Facilities") on and within Lot 1A, Lot 2A, Lot 16A, Lot 20A, Lot 24A, Lot 25A, Lot 26A and, possibly, Lot 23A, each as depicted on the Proposed Replat, and within portions of the rights-of-way between and/or contiguous to such lots. The Banks Parking Facilities to be developed and constructed by the County on those lots are depicted generally in Exhibit B.1 hereto. The County may elect to develop additional parking facilities as part of the Banks Parking Facilities on and within ground lot portions (underneath corresponding air lot portions) of Lot 13, Lot 27, and/or Lot 28, as such lots are depicted on the Proposed Replat, and as such potential additional parking facilities are depicted generally in Exhibit B.2 hereto.

D. On or about this date, the County, the City and Master Developer are entering into a Master Development Agreement (the "Master Development Agreement"), pursuant to which, among other things, the County and the City are designating Master Developer as master developer for a mixed use project (the "Banks Project") in Lot 1B, Lot 2B, Lot 16B, Lot 24B, Lot 25B and Lot 26B, each as depicted on the Proposed Replat, above the Banks Parking Facilities and on certain other lots in the vicinity of the Banks Parking Facilities (including Lot 13 and Lot 27, the Banks Project portions of which may be above Banks Parking Facilities if the County elects to develop additional parking facilities thereon).

E. Phase 1 (as defined below) of the Banks Parking Facilities will be constructed, in part, with a Congestion Mitigation and Air Quality grant from the Federal Highway Administration.

F. In conjunction with the Master Development Agreement, the County and Master Developer desire to enter into this Agreement regarding the use and operation of the Parking Facilities (as defined below).

Statement of Agreement

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Master Developer hereby agree as follows:

1. **Definitions.** As used in this Agreement, the following terms have the meanings given below:

“**Agreement**” means this Master Parking Facilities Operating and Easement Agreement, including all exhibits hereto, as amended, restated, replaced, modified or supplemented from time to time.

“**Available Office Parking Spaces**” means that number of parking spaces in the Public Parking Facilities equal to three parking spaces per 1,000 Square Feet of Banks Office Space.

“**Banks Air Lot**” means each of (a) Lot 1B, Lot 2B, Lot 16B, Lot 24B, Lot 25B and Lot 26B and (b) if the County elects to subdivide Lot 13 and/or Lot 27 into a ground lot and an air lot, the air lot portion of Lot 13 and/or Lot 27, as applicable, each as depicted on the Proposed Replat.

“**Banks Office Space**” means office space within completed office buildings located within the Banks Project.

“**Banks Parking Facilities**” has the meaning given in recital paragraph C, and consist of Phase 1 and, if and when constructed, all Future Phases.

“**Banks Parking Facility Lot**” means each of (a) Lot 1A, Lot 2A, Lot 16A, Lot 20A, Lot 24A, Lot 25A, Lot 26A, (b) if Banks Parking Facilities are constructed thereon, Lot 23A, and (c) if the County elects to subdivide Lot 13, Lot 27 and/or Lot 28 into a ground lot and an air lot, the ground lot portion of Lot 13, Lot 27 and/or Lot 28, as applicable, each as depicted on the Proposed Replat.

“**Banks Project**” has the meaning given in recital paragraph D.

“**Banks Residential Space**” means residential space within completed buildings located within the Banks Project.

“Banks Retail Space” means retail space within completed buildings located within the Banks Project.

“Bengals” means Cincinnati, Bengals, Inc., an Ohio corporation.

“Bengals Lease” means the Lease Agreement dated May 29, 1997 by the County and the Bengals, as amended by an Amendment of Lease Agreement dated January 31, 1998, a Second Amendment of Lease Agreement dated April 10, 1998, certain provisions of a Management Agreement dated May 29, 2000, and a Third Amendment of Lease Agreement dated June 24, 2000.

“City” has the meaning given in recital paragraph A.

“County” has the meaning given in the introductory paragraph of this Agreement.

“Dedicated Parking Spaces” means (a) those parking spaces in Phase 1, depicted as “Dedicated Parking Spaces” in Exhibit C.1 hereto (depicting the Dedicated Parking Spaces upon completion of the “Phase 1A Improvements” as defined in the Master Development Agreement) and Exhibit C.2 hereto (depicting the Dedicated Parking Spaces upon completion of both the “Phase 1A Improvements” and “Phase 1B Improvements” as defined in the Master Development Agreement), each subject to reduction as provided in Section 4.1(b), and (b) such other parking spaces in any Future Phase as the Parties may by supplement to this Agreement hereafter designate as Dedicated Parking Spaces (it being understood that the County shall have complete discretion in determining whether to agree to any designation of Dedicated Parking Spaces in any Future Phase requested by Master Developer).

“Designated Office Parking Spaces” means that number of Available Office Parking Spaces equal to 0.5 parking spaces per 1,000 Square Feet of Banks Office Space (the Designated Office Parking Spaces being a subset of, and not in addition to, the Available Office Parking Spaces).

“Developer” means, in respect of a Development Lot, the owner of the fee simple interest in a Development Lot. Notwithstanding the foregoing:

(a) any Mortgagee shall not be deemed a Developer with respect to a Development Lot encumbered by the Mortgage held by such Mortgagee unless such Mortgagee shall have excluded the mortgagor from possession by appropriate legal proceedings following a default under such Mortgage or shall have acquired the interest encumbered by such Mortgage through Foreclosure;

(b) a tenant or lessee of space in a Development Lot shall not be deemed a Developer;

(c) if a Development Lot is owned under the condominium or cooperative form of ownership, the association of the condominium or the cooperative entity, as the case may be, shall be deemed the sole Developer;

(d) any Person holding or owning any easements, rights-of-way or licenses that pertain to or affect any portion of a Development Lot shall not be deemed the Developer solely by virtue of such easements, rights-of-way or licenses; and

(e) in the event the Developer consists of more than one Person (other than owners of individual condominium units or cooperative ownership interests), such Persons shall, within 30 days after the date of their acquisition of a Development Lot, execute and deliver to the County and Master Developer a written instrument, including a power of attorney, appointing and authorizing one of such Persons comprising the Developer as their designated agent to receive all notices and demands to be given to the Developer pursuant to this Agreement and to take any and all actions required or permitted to be taken by the Developer under this Agreement. Until such instrument is executed and delivered, it shall be deemed that there is no Developer for the purposes of exercising any rights of the Developer under this Agreement. Such Persons comprising the Developer may change their designated agent by written notice to the County and Master Developer, but such change shall be effective only after actual receipt by the County and Master Developer of such written notice and a replacement instrument or instruments, including a power of attorney from all Persons comprising the Developer appointing and authorizing one of such Persons comprising the Developer to act as attorney-in-fact pursuant to such power of attorney.

“Developer’s Share” means, with respect to each Developer, the percentage determined from time to time by dividing (a) the number of Dedicated Parking Spaces in the Banks Parking Facilities allocated by Master Developer to the Banks Residential Space in such Developer’s Development Lot from time to time by (b) the total number of parking spaces in the Parking Facilities from time to time, rounded to the nearest one-tenth of one percent (0.1%). Developer’s Share shall be adjusted upon each change in the number of Dedicated Parking Spaces allocated by Master Developer to the Banks Residential Space in such Developer’s Development Lot and upon each change in the total number of parking spaces in the Parking Facilities, as Banks Parking Facilities are completed and opened to the public.

“Development Lot” means (a) each Banks Air Lot which is not subdivided and (b) each subdivided portion of a Banks Air Lot.

“Existing Parking Facilities” means the County’s intermodal parking facilities existing as of the date of this Agreement, depicted in Exhibit B.1 hereto as the parking facilities other than Phase 1 and Future Phases.

“Existing Third Parties” means the parties to the Third Party Agreements other than the County, together with their respective successors and assigns.

“Federal Requirements” means terms and conditions of any agreement governing the financing, maintenance, and/or operation of Phase 1 that the County is required to enter into in connection with receipt of the Congestion Mitigation and Air Quality grant referenced in recital paragraph E.

“Future Phase” means each phase of the Banks Parking Facilities constructed after Phase 1.

“Joinder Agreement” has the meaning given in Section 4.7.

“Master Developer” has the meaning given in the introductory paragraph of this Agreement.

“Master Development Agreement” has the meaning given in recital paragraph D.

“Mortgage” means (a) any encumbrance of a Development Lot as security for any indebtedness or other obligation of a Developer or its successors and assigns, whether by mortgage, deed of trust, sale/leaseback, pledge, financing statement, security agreement, or other security instrument, and (b) any encumbrance of a Banks Parking Facility Lot as security for any indebtedness or other obligation of the owner thereof or its successors and assigns, whether by mortgage, deed of trust, sale/leaseback, pledge, financing statement, security agreement, or other security instrument. However, a mortgage or deed of trust for an individual condominium unit or cooperative ownership interest shall not constitute a Mortgage for the purposes of this Declaration.

“Mortgagee” means the holder of any Mortgage and the indebtedness or other obligation secured thereby, whether the initial holder thereof or the heirs, legal representatives, successors, transferees and assigns of such initial holder.

“Operating Expenses” means all commercially reasonable out-of pocket costs and expenses paid or incurred by the County (including such costs and expenses reimbursable by the County to any operator(s) of the Parking Facilities) in connection with managing, operating, maintaining and repairing the Parking Facilities, computed in accordance with generally accepted accounting principles applied on a consistent basis. Operating Expenses include, by way of illustration, but are not limited to: (a) costs of maintaining and repairing the Parking Facilities; (b) costs of insuring the Parking Facilities and all operations conducted therein with such policies, coverages and companies and in such limits as may be selected by the County; (c) Taxes; (d) costs of providing janitorial service to, and removing trash from, the Parking Facilities; (e) flood cleanup costs; (f) costs for utility services furnished to the Parking Facilities; (g) costs for police details and other security services at the Parking Facilities; (h) costs of restriping the Parking Facilities; (i) costs of licenses, permits and inspection fees with respect to the Parking Facilities; (j) legal, accounting, inspection and consulting fees payable with respect to the Parking Facilities; (k) wages, salaries and benefits of personnel employed at or directly related to the Parking Facilities, to the extent reasonably allocable to the Parking Facilities; (l) the amount of any insurance deductibles paid in connection with an insured loss to the Parking

Facilities; (m) fees and expenses paid to a third party management company to manage the Parking Facilities or any portion thereof, if applicable; and (n) costs of capital repairs and replacements made to the Parking Facilities, amortized over their expected useful life based upon and including a market rate of interest. However, notwithstanding the above, the following shall not be included in Operating Expenses: (i) the costs of designing and constructing the Parking Facilities; (ii) interest on debt or amortization payments on any mortgage/deed of trust, or rent on any ground lease or other underlying lease; (iii) costs for which the County is reimbursed or has a right to reimbursement (either by an insurer, condemnor, or other person or entity); (iv) costs for which the County is reimbursed or has a right to reimbursement under warranties provided to the County by contractors who have warranty obligations; (v) costs for which the County is reimbursed or has a right to reimbursement pursuant to any of the Third Party Agreements; (vi) expenses which are billed directly to any user of the Parking Facilities; (vii) the County's general overhead and administrative expenses; (viii) depreciation of the Parking Facilities; (ix) incremental costs attributable to the operation of the Parking Facilities as a public parking facility, including, without limitation, gate attendant and security costs associated with public access, that would not reasonably be incurred if the Parking Facilities were operated as a private parking facility; (x) costs and expenses which are attributable to the Third Party Rights or to the use of the Parking Facilities for parking for special events; (xi) mark-ups of any kind on any Operating Expenses; (xii) costs (including attorneys' fees and costs) related to any sale, financing or refinancing of the Parking Facilities or incurred in connection with negotiations or disputes with purchasers, prospective purchasers, lenders and prospective lenders; (xiii) capital expenditures, except to the extent of the amortized portion of costs of capital repairs and replacements included pursuant to clause (n) above; (xiv) federal and state taxes on income, death, estate or inheritance; or franchise taxes; (xv) costs to bring the Parking Facilities into full compliance with all federal, state or local legal requirements, including the federal Americans with Disabilities Act; (xvi) costs (including attorneys' fees and costs) of enforcing any Third Party Agreements or incurred in connection with negotiations or disputes with Developers or prospective Developers; (xvii) the cost of curing any construction defects in the Parking Facilities; (xviii) insurance deductibles that exceed commercially reasonable deductibles; (xix) costs incurred due to the uninsured negligence or willful misconduct of the County or the violation by the County of any applicable legal requirements; (xx) costs of renting equipment for which the purchase cost (including any amortized portion of the purchase cost), if purchased, would not be included in Operating Expenses; and (xxi) costs paid or incurred in connection with any hazardous materials or hazardous substances present on or otherwise affecting the Parking Facilities as of the date of the completion of the subject portion of the Banks Parking Facilities, including the costs any investigation or remediation thereof.

"Parking Facilities" means, collectively, the Banks Parking Facilities and the Existing Parking Facilities.

"Party" means each of the County, Master Developer and each Developer, as this Agreement relates to the Development Lot owned by such Developer. **"Parties"** means all of the County, Master Developer and each Developer, as this Agreement relates to the Development Lot owned by such Developer, unless the context indicates otherwise.

“Person” means any individual, sole proprietorship, partnership, joint venture, limited liability company, corporation, joint stock company, trust, unincorporated association, institution, entity or governmental authority.

“Phase 1” means those portions of the Banks Parking Facilities depicted as Phase 1 in Exhibit B.1 hereto.

“Proposed Replat” has the meaning given in recital paragraph B.

“Public Parking Facilities” means the Parking Facilities other than the Dedicated Parking Spaces.

“Reds” means The Cincinnati Reds, LLC, a Delaware limited liability company.

“Reds Lease” means the Amended and Restated Lease Agreement dated July 9, 2003 by the County and the Reds.

“Short-Term Parking” means parking for not longer than three hours.

“Short-Term Parking Spaces” has the meaning given in Section 4.3(a).

“Specific Declaration” means the Specific Declaration of Easements, Covenants, Conditions and Restrictions to which each Banks Air Lot and each Banks Parking Facility Lot will be submitted pursuant to the Master Development Agreement.

“Square Feet” means: (a) with respect to Banks Office Space, square feet of rentable area according to the Standard Method for Measuring Floor Area in Office Buildings, ANSI/BOMA Z65.1-2006; and (b) with respect to Banks Retail Space, square feet of interior floor area designed for tenant occupancy and exclusive use, including “selling” basement space (but excluding “non-selling” basement space), “selling” mezzanine space (but excluding “non-selling” mezzanine space), and “selling” upper floor space (but excluding “non-selling” upper floor space), and excluding outdoor patio/sidewalk space (“selling” space referring to space used for the sale of goods or merchandise directly to customers, for the rendering of services directly to customers, and for any other intended use directly by customers; and “non-selling” space referring to space not intended for such uses, such as storage space).

“Taxes” means all real estate taxes, service payments in lieu of taxes, and assessments payable with respect to the Parking Facilities, including the land on which the Parking Facilities are located.

“Third Party Agreements” means the agreements by the County with or for the benefit of third parties affecting the use of any portion of the Parking Facilities, consisting of: (a) the Bengals Lease; (b) the Reds Lease; (c) the Parking Cooperation Agreement dated May 1, 2005, by the County and Arena Management Holdings, LLC; (d) the Declaration of Easements, Covenants, Conditions and Restrictions dated May 11, 2001 by National Underground Railroad Freedom Center, Inc. and the County, as amended by a First Amendment dated September 25,

2002; and (e) the Declaration of Easements, Covenants, Conditions and Restrictions dated May 11, 2001 by the City and the County.

“Third Party Rights” means, collectively, the rights of Existing Third Parties under the Third Party Agreements, as the Third Party Agreements may be modified in accordance with Section 3.1, and (b) the rights of any other third parties in the Parking Facilities granted by the County in accordance with Section 3.1.

2. Term. The term of this Agreement shall be 99 years commencing on the date of this Agreement, subject to the following provisions of this Section 2. The easements granted pursuant to this Agreement shall survive expiration of the term of this Agreement. This Agreement, and the easements granted pursuant to this Agreement, shall not independently obligate the County to construct any Banks Parking Facilities or to reconstruct any Parking Facilities which, after construction, are destroyed by casualty or otherwise demolished, which obligations shall be governed by the Master Development Agreement and the several Specific Declarations. This Agreement shall be effective only as to Development Lots which the City has conveyed to a Developer and as to which the County, Master Developer and such Developer have entered into a Joinder Agreement in accordance with Section 4.7, and as to the Banks Parking Facility Lots below such Development Lots.

3. Use and Management of Parking Facilities Generally.

3.1 Use. The Parking Facilities shall be used as public parking facilities, subject to Federal Requirements and the Third Party Rights and subject to the rights of Master Developer under this Agreement and the rights of the Developers under the easements granted pursuant to this Agreement. The County may modify the rights of Existing Third Parties under the Third Party Agreements with respect to the Parking Facilities, and grant rights to other third parties with respect to the Parking Facilities; provided that the County shall give written notice to Master Developer of any such modifications or new rights which are material; and provided, further, that the County shall not, other than with the prior written consent of Master Developer, modify the rights of Existing Third Parties under the Third Party Agreements, or grant rights to other third parties with respect to the Parking Facilities (including, without limitation, modifications or grants that would (a) materially increase the number of parking spaces in the Parking Facilities that the County must commit to Existing Third Parties and other third parties beyond the number presently required by the Third Party Agreements, or (b) materially increase the hours and/or frequency that the County must commit parking spaces in the Parking Facilities to Existing Third Parties and other third parties beyond those presently required by the Third Party Agreements) in a manner that would (i) affect in any respect the Dedicated Parking Spaces, (ii) materially adversely affect the availability of parking spaces in the Public Parking Facilities for users of the Banks Project, (iii) materially adversely affect any rights with respect to the Parking Facilities granted by the County to Master Developer as provided in Section 4, or (iv) materially adversely affect any easements granted by the County to a Developer in the Parking Facilities pursuant to Section 4.

3.2 Management.

(a) **Generally.** The Parking Facilities shall be subject to the exclusive control and management of the County, subject to (i) Federal Requirements, (ii) the Third Party Rights, and (iii) the rights of Master Developer under this Agreement and the rights of any Developer under any easement granted pursuant to this Agreement. The County shall manage and operate, or cause to be managed and operated, the Parking Facilities in a manner consistent with the standards generally applicable to first class mixed use developments in the Greater Cincinnati area. The County's obligations with respect to the management and operation of the Parking Facilities include, but are not limited to, the maintenance and repair of the Parking Facilities. The County may from time to time adopt and modify non-discriminatory rules and regulations governing the use of the Parking Facilities, and Master Developer, any Developer and those using the Parking Facilities by virtue of the rights granted pursuant to this Agreement shall be bound by such rules and regulations so long as such rules and regulations are not inconsistent with this Agreement or any easement granted pursuant to this Agreement. The County reserves the right to modify and alter the Parking Facilities subject to the approval of such modifications and alterations by Master Developer, which approval shall not be unreasonably withheld. The scope of Master Developer's review of any proposed modification or alteration of the Parking Facilities shall be limited to those matters within the scope of a Developer's review of the plans and specifications for the initial construction of Banks Parking Facilities pursuant to the Specific Declarations.

(b) **Fees.** Without limiting the generality of Section 3.2(a), the fees to be charged for parking spaces in the Public Parking Facilities, whether hourly, monthly or otherwise, shall be determined by the County from time to time; provided that the hourly rates shall be competitive with the hourly rates charged by comparable parking facilities in the Central Business District. The County shall establish monthly rates for the use of the Public Parking Facilities (other than the Short-Term Parking Spaces) from time to time, which shall be competitive with the monthly rates charged by comparable parking facilities in the Central Business District.

(c) **Validation System.** The County shall work with Master Developer and Developers of Banks Retail Space and Banks Office Space in good faith to establish a validation system for parking in the Public Parking Facilities by visitors to Banks Retail Space and Banks Office Space, under which the occupant of the Banks Retail Space or Banks Office Space would pay all of a portion of the parking fees charged for such visitors.

(d) **Card Readers.** The County shall work with Master Developer and Developers of Banks Office Space in good faith to establish a compatible card reader system or similar system to permit controlled access to the Public Parking Facility by monthly parkers.

(e) **Third Party Management.** The County may, at the County's option, engage a third party management company to manage the Parking Facilities or any portion thereof, which management arrangement may be accomplished through a management agreement, a lease or another document agreed to by the County and the third party management

company; provided that such management agreement, lease or other document shall be subject and subordinate in all respects to this Agreement.

4. Special Rights of Master Developer and Developers. Master Developer and the Developers shall have special rights with respect to the Parking Facilities as provided below in this Section 4.

4.1 Dedicated Parking Spaces.

(a) **Generally.** The Dedicated Parking Spaces shall be for the exclusive use by users of Banks Residential Space. Master Developer shall allocate the Dedicated Parking Spaces to and among the Development Lots containing Banks Residential Space. Each Developer shall have the exclusive right at all times to the use of the Dedicated Parking Spaces allocated by Master Developer to such Developer's Development Lot for users of Banks Residential Space within such Development Lot, and each such Developer may designate such allocated Dedicated Parking Spaces as reserved for particular users of Banks Residential Space within such Development Lot. The Dedicated Parking Spaces shall be separately designated from the Public Parking Facilities as reasonably necessary to prevent access to the Dedicated Parking Spaces by the general public in order that the Dedicated Parking Spaces will be available for exclusive use by users of Banks Residential Space. However, access to the Dedicated Parking Spaces may be through other portions of the Parking Facilities, and the Parking Facilities shall be a single integrated parking facility.

(b) **Reduction of Dedicated Parking Spaces in Phase 1.** The number of Dedicated Parking Spaces in Phase 1 is based on assumptions, as set forth in the Master Development Agreement, as to the number of condominium units and apartment units that will be contained in the Banks Residential Space to be developed within the Development Lots immediately above Phase 1. If, in accordance with the Master Development Agreement, the number of Dedicated Parking Spaces in Phase 1 is to be reduced below the number indicated by Exhibit C.1 and Exhibit C.2 hereto, the County, Master Developer and the applicable Developer(s) shall enter into a supplement to this Agreement, in recordable form, amending Exhibit C.1 and Exhibit C.2 hereto accordingly.

(c) **Temporary Relocation.** Some of the Dedicated Parking Spaces in Phase 1 are located on the lower level of Phase 1, and, if there are any Dedicated Parking Spaces in any Future Phase, some or all of such Dedicated Parking Spaces might be located on the lower level of such Future Phase. At such times that the lower level of the Banks Parking Facilities cannot be used due to a flood event, the County shall relocate the affected Dedicated Parking Spaces to usable portions of the Parking Facilities on an undesignated basis.

(d) **Parking Charges.** Each Developer shall pay the Developer's Share of Operating Expenses to the County with respect to the Dedicated Parking Spaces allocated to the Banks Residential Space owned by such Developer, in accordance with Section 5, but none of Master Developer, any Developer or the users of Banks Residential Space shall be required to pay parking charges to the County for use of the Dedicated Parking Spaces, and the parking charges, if any, to users of the Dedicated Parking Spaces allocated to the Banks

Residential Space in each Development Lot shall be determined by the Developer thereof from time to time and paid by the users to or at the direction of such Developer.

4.2 Available Office Parking Spaces.

(a) **Generally.** The County shall make available the required number of Available Office Parking Spaces, including the Designated Office Parking Spaces, for users of Banks Office Space, subject only to any inconsistent Third Party Rights and to interruption by flood events. Those of the Available Office Parking Spaces which are Designated Office Parking Spaces shall be available to users of Banks Office Space on a designated (reserved) basis for monthly parking, and shall be in locations to be agreed upon by the County and Master Developer in the vicinity of the subject Banks Office Space, but the rights of such users of Banks Office Space to Designated Office Parking Spaces shall be subject to any inconsistent Third Party Rights. Those of the Available Office Parking Spaces which are not Designated Office Parking Spaces shall be available to users of Banks Office Space on an undesignated (unreserved) basis for monthly parking, subject to any inconsistent Third Party Rights and to interruption by flood events. The rights of Master Developer under this Section 4.2(a) shall be subject to Sections 4.5 and 4.6. At the request of the County or Master Developer from time to time, the County and Master Developer shall confirm in writing the Square Feet of Banks Office Space within the Banks Project.

(b) **Parking Charges.** Users of the Available Office Parking Spaces shall pay the monthly rates established by the County from time to time pursuant to Section 3.2(b).

4.3 Short-Term Parking.

(a) **Generally.** The County shall, subject to any inconsistent Third Party Rights and to interruption by flood events, designate for Short-Term Parking such number of parking spaces within the Public Parking Facilities which, taking into account the on-street metered parking within or adjacent to the Banks Project and mass transit use, are reasonably sufficient to accommodate the demand from time to time for Short-Term Parking by customers of Banks Retail Space (such parking spaces being called the “Short-Term Parking Spaces”); provided that in no event shall the County be required to designate a number of Short-Term Parking Spaces greater than (i) three (3.0) per 1,000 Square Feet of Banks Retail Space, less (ii) the number of on-street metered parking spaces within or adjacent to the Banks Project. The County may, in its reasonable discretion, change the number of Short-Term Parking Spaces from time to time based on changes in the amount of Banks Retail Space and the demand for Short-Term Parking in the Parking Facilities. The Short-Term Parking Spaces shall be in locations reasonably convenient to Banks Retail Space. Subject to the requirement that the Short-Term Parking Spaces be in locations reasonably convenient to the Banks Retail Space, the Short-Term Parking Spaces may be located at various places in the Public Parking Facilities, and the County may change the locations of the Short-Term Parking Spaces from time to time. The Short-Term Parking Spaces shall be available to the public for Short-Term Parking, including but not limited to Short-Term Parking by customers of Banks Retail Space, and the County shall not intentionally sell the Short-Term Parking Spaces on a monthly or daily basis or otherwise

intentionally sell the Short-Term Parking Spaces other than for Short-Term Parking. The above provisions of this Section 4.3(a) shall be subject to Sections 4.5 and 4.6. At the request of the County or Master Developer from time to time, the County and Master Developer shall confirm in writing the Square Feet of Banks Retail Space within the Banks Project and the number of Short-Term Parking Spaces (subject to adjustment pursuant to this Section 4.3(a)) on the basis thereof.

(b) **Parking Charges.** Users of the Short-Term Parking Spaces shall pay the hourly charges established by the County from time to time pursuant to Section 3.2(b).

4.4 Valet Parking.

(a) **Generally.** If requested by the operator of any restaurant within the Banks Project, the County shall make a reasonable number of parking spaces within the Public Parking Facilities available to such restaurant operator for valet parking. If the Public Parking Facilities contain sufficient parking spaces in excess of the Available Office Parking Spaces and the Short-Term Parking Spaces that, in the County's reasonable judgment taking into account other demands on the Public Parking Facilities, it is not necessary to use the Short-Term Parking Spaces for the valet parking, the County will designate parking spaces in the Public Parking Facilities other than Short-Term Parking Spaces for valet parking. Otherwise, the valet parking will be within the Short-Term Parking Spaces. The above provisions of this Section 4.4(a) shall be subject to Sections 4.5 and 4.6.

(b) **Parking Charges.** Users of valet parking spaces shall pay the hourly charges established by the County from time to time pursuant to Section 3.2(b).

4.5 Conflicts with Reds. Master Developer recognizes that, pursuant to the Reds Lease, the County will set aside certain portions of the Parking Facilities (but not any Dedicated Parking Spaces) for the Reds for parking for Reds home games, and that, during periods that such portions of the Parking Facilities are set aside for the Reds in accordance with the Reds Lease, the parking spaces within such portions of the Parking Facilities will be unavailable for use by users of Banks Office Space, for Short-Term Parking or for valet parking. Without limiting the generality of the immediately preceding sentence, Master Developer recognizes that, on weekdays on which the Reds have daytime home games, the parking spaces within portions of the Parking Facilities set aside for the Reds will be unavailable during daytime hours for use by users of Banks Office Space, for Short-Term Parking or for valet parking. During periods that portions of the Parking Facilities are set aside for the Reds pursuant to the Reds Lease, including but not limited to all daytime hours on weekdays on which the Reds have daytime games, the Available Office Parking Spaces, including the Designated Office Parking Spaces, shall be limited to those portions of the Parking Facilities outside of the portions set aside for the Reds, on an undesignated (unreserved) basis. If, on weekdays on which the Reds have daytime home games, there are not sufficient available parking spaces in the Parking Facilities (outside of the portions set aside for the Reds) to reasonably accommodate use of the Available Office Parking Spaces within the Parking Facilities for users of Banks Office Space, the County will use commercially reasonable efforts to provide overflow parking within reasonable proximity to the Parking Facilities (such as, but not limited to, surface lots within

undeveloped portions of the Banks Project or the surface lot located at Third and Central Streets) to address the shortage of Available Office Parking Spaces within the Parking Facilities.

4.6 Conflicts with Bengals. Master Developer recognizes that, pursuant to the Bengals Lease, the County will set aside certain portions of the Parking Facilities (but not any Dedicated Parking Spaces) for the Bengals for parking for Bengals home games, and that, during periods that such portions of the Parking Facilities are set aside for the Bengals in accordance with the Bengals Lease, the parking spaces within such portions of the Parking Facilities will be unavailable for use by users of Banks Office Space, for Short-Term Parking or for valet parking. Without limiting the generality of the immediately preceding sentence, Master Developer recognizes that, on weekdays on which the Bengals have home games, the parking spaces within portions of the Parking Facilities set aside for the Bengals will be unavailable for use by users of Banks Office Space, for Short-Term Parking or for valet parking during a portion of the day. During periods that portions of the Parking Facilities are set aside for the Bengals pursuant to the Bengals Lease, the Available Office Parking Spaces, including the Designated Office Parking Spaces, shall be limited to those portions of the Parking Facilities outside of the portions set aside for the Bengals, on an undesignated (unreserved) basis. If, on weekdays on which the Bengals have home games, there are not sufficient available parking spaces in the Parking Facilities (outside of the portions set aside for the Bengals) to reasonably accommodate use of the Available Office Parking Spaces within the Parking Facilities for users of Banks Office Space, the County will use commercially reasonable efforts to provide overflow parking within reasonable proximity to the Parking Facilities (such as, but not limited to, the structured parking facility currently known as the East Garage) to address the shortage of Available Office Parking Spaces within the Parking Facilities.

4.7 Joinder.

(a) General. Upon the conveyance by the City to a Developer of any Development Lot, the County, Master Developer and such Developer shall enter into a Joinder Agreement (a "Joinder Agreement") in the form of Exhibit D hereto. Pursuant to each Joinder Agreement, (i) the subject Developer shall become subject to, and entitled to the benefit of, this Agreement with respect to the subject Development Lot, shall assume the obligations of Master Developer under this Agreement with respect to the subject Development Lot, and shall be substituted for Master Developer under this Agreement as this Agreement relates to the subject Development Lot, and (ii) if the subject Development Lot includes Banks Residential Space, Master Developer shall allocate to the subject Developer such of the Dedicated Parking Spaces, if any, as are to be allocated to such Development Lot.

(b) Easements for Dedicated Parking Spaces. Under each Joinder Agreement for a Development Lot within which Banks Residential Space is to be constructed, the County shall grant to the Developer: (i) an exclusive, perpetual easement, for the benefit of such Development Lot, to use the Dedicated Parking Spaces in the Banks Parking Facilities constructed or to be constructed below such Development Lot and which are allocated to the Banks Residential Space in such Development Lot pursuant to this Agreement, for parking by users of such Banks Residential Space; and (ii) a non-exclusive, perpetual easement, for the benefit of such Development Lot, in, on, over and across portions of the Public Parking Facilities

designed therefor for vehicular and pedestrian access to and from such Dedicated Parking Spaces by those entitled to use such Dedicated Parking Spaces. Such easements shall be subject to the terms and conditions set forth in Section 4.1 and other applicable provisions of this Agreement.

(c) **Easements for Available Office Parking Spaces.** Under each Joinder Agreement for a Development Lot within which Banks Office Space is to be developed, the County shall grant to the Developer: (i) a non-exclusive, perpetual easement, for the benefit of such Development Lot, to use Designated Office Parking Spaces for parking by users of Banks Office Space to be constructed on such Development Lot; (ii) a non-exclusive, perpetual easement, for the benefit of such Development Lot, to use Available Office Parking Spaces, other than Designated Office Parking Spaces, for parking by users of Banks Office Space to be constructed on such Development Lot; and (iii) a non-exclusive, perpetual easement, for the benefit of the Development Lot, in, on, over and across portions of the Public Parking Facilities designed therefor for vehicular and pedestrian access to and from such Available Office Parking Spaces (including Designated Office Parking Spaces) by those entitled to use such Available Office Parking Spaces. Such easements shall be subject to the terms and conditions set forth in Sections 4.2, 4.5 and 4.6 and other applicable provisions of this Agreement.

(d) **Easements for Short-Term Parking.** Under each Joinder Agreement for a Development Lot within which Banks Retail Space is to be developed, the County shall grant to the Developer: (i) a non-exclusive, perpetual easement, for the benefit of such Development Lot, to use the Short-Term Parking Spaces for Short-Term Parking; and (ii) a non-exclusive, perpetual easement, for the benefit of such Development Lot, in, on, over and across portions of the Public Parking Facilities designed therefor for vehicular and pedestrian access to and from the Short-Term Parking Spaces by those entitled to use the Short-Term Parking Spaces. Such easements shall be subject to the terms and conditions set forth in Sections 4.3, 4.5 and 4.6 and other applicable provisions of this Agreement.

4.8 Federal Requirements. The County represents to Master Developer that the Federal Requirements are not inconsistent with the rights granted to Master Developer and Developers under the above provisions of this Section 4.

5. Developer's Share of Operating Expenses. Each Developer of a Development Lot in which Banks Residential Space is located and to which any Dedicated Parking Spaces are allocated shall be responsible for the Developer's Share of Operating Expenses allocated to such Dedicated Parking Spaces in accordance with the following provisions of this Section 5.

5.1 Annual Statements. With reasonable promptness after the end of each calendar year during the term of this Agreement, the County shall submit to such Developer a statement of the Operating Expenses, and its Developer's Share of Operating Expenses, for such year, setting forth in reasonable detail an accounting of the Operating Expenses for the year. Within 30 days after submission of such statement, such Developer shall pay to the County its Developer's Share of Operating Expenses for such year according to the statement; provided that if the County has exercised its right to require monthly payments in respect of such Developer's Share of Operating Expenses as provided in Section 5.2, then, within 30 days after submission of such annual statement, the payments by such Developer to the County in respect of its

Developer's Share of Operating Expenses for the year shall be reconciled, and payments or refunds made, on the basis of the annual statement.

5.2 Monthly Payments. At the option of the County, the County may require such Developer to pay its Developer's Share of Operating Expenses to the County on a monthly basis as provided in this Section 5.2. Such monthly payments, if required by the County, shall, at the election of the County, either be (a) based on monthly statements of Operating Expenses and the Developer's Share of Operating Expenses to be submitted by the County to such Developer after the end of each calendar month, setting forth in reasonable detail an accounting of the Operating Expenses for the month, in which case such statements shall be due 30 days after submission, or (b) based on the County's good faith estimate of Operating Expenses and the Developer's Share of Operating Expenses for the year, in which case such Developer shall pay 1/12th of its estimated Developer's Share of Operating Expenses for the year on the first day of each month during the year.

5.3 Adjustment for Taxes. If portions of the Parking Facilities other than the Dedicated Parking Spaces receive exemptions from or abatements of Taxes that are not available for the Dedicated Parking Spaces, then, for purposes of determining the Developer's Share of Operating Expenses for all Developers, the Taxes shall be equitably adjusted in order that such Developer's Share of Operating Expenses include all Taxes, if any, assessed with respect to the Dedicated Parking Spaces allocated to such Developer.

5.4 Audit Rights. Each Developer required to pay its Developer's Share of Operating Expenses shall have the right from time to time, but not more frequently than twice in any calendar year, to audit the books and records of the County, and of any third party management company, relating to the operation of the Parking Facilities. Such audit shall be carried out only by such Developer or by an independent firm of certified public accountants, and shall be subject to the County's and any third party management company's reasonable audit procedures. No party conducting such an audit shall be compensated on a contingency or other incentive basis. If any such audit establishes that the County has misstated the Operating Expenses, corrective entries shall be made on the basis of such audit, and a reconciling payment shall be made promptly by the County to such Developer, or by such Developer to the County, as applicable. The cost of any audit performed pursuant to this Section 5.4 shall be borne by such Developer, unless the audit establishes an overstatement of Operating Expenses by more than 3%, in which event the County shall reimburse such Developer for the reasonable cost of the audit.

6. Default and Remedies.

6.1 Default Notices. At any time as of which there exists a default by Master Developer in the due and punctual payment, performance or observance of any obligation of Master Developer under this Agreement, the County may give Master Developer a written notice, indicated as being a "Default Notice" under this Section 6.1, identifying such default and specifying a period of time reasonable under the circumstances for the cure of such default; provided that if the County has received written notice of the name and address of a Mortgagee of any Development Lot and/or the improvements thereto, then the County shall also give a copy

of such notice to such Mortgagee. At any time as of which there exists a default by the County in the due and punctual payment, performance or observance of any obligation of the County under this Agreement, Master Developer may give the County a written notice, indicated as being a "Default Notice" under this Section 6.1, identifying such default and specifying a period of time reasonable under the circumstances for the cure of such default; provided that if Master Developer has received written notice of the name and address of a Mortgagee of any applicable Banks Parking Facility Lot and/or the improvements thereto, then Master Developer shall also give a copy of such notice to such Mortgagee. Any notice given in accordance with this Section 6.1 is called a "Default Notice." The period of time for cure to be set forth in any Default Notice shall be not shorter than such period of time as is reasonable in light of the nature of the default and the time reasonably required to cure the default.

6.2 Enforcement. Each Party shall have the right to enforce this Agreement in any manner provided by law or equity; provided that the County shall not have any right to terminate this Agreement or any right or easement granted pursuant to this Agreement by reason of any default by or through Master Developer or any Developer. As the remedy at law for the breach of any of the terms of this Agreement may be inadequate, each enforcing Party shall have a right of temporary and permanent injunction, specific performance and other equitable relief that may be granted in any proceeding brought to enforce any provision hereof, without the necessity of proof of actual damage or inadequacy of any legal remedy. Default under any of the terms of this Agreement which is not cured within the reasonable cure period as specified in the applicable Default Notice shall give a non-defaulting Party a right of action in any court of competent jurisdiction to compel compliance and/or to prevent the default, and the expenses of such litigation shall be borne by the defaulting Party, provided such proceeding confirms the alleged default. Expenses of litigation shall include reasonable attorneys' fees and expenses incurred by the non-defaulting Party in enforcing this Agreement. The above provisions of this Section 6.2 shall be subject to the dispute resolution provisions set forth in Section 7.

6.3 Self-Help. Without limiting the provisions of Section 6.2, (a) should any defaulting Party fail to remedy any default identified in a Default Notice within the reasonable cure period specified in such Default Notice, or (b) should any default under this Agreement exist which (i) constitutes or creates an immediate threat to health or safety, (ii) constitutes or creates an immediate threat of damage to or destruction of property or (iii) is of the same nature as defaults or violations with respect to which two or more Default Notices have been given within the immediately preceding 24 months, then, in any such event, the non-defaulting Party shall have the right, but not the obligation, to take such steps as such non-defaulting Party may elect to cure, or cause to be cured, such default or violation. If a non-defaulting Party cures, or causes to be cured, a default as provided above in this Section 6.3, then there shall be due and payable by the defaulting Party to the non-defaulting Party upon demand the amount of the reasonable costs and expenses incurred by the non-defaulting Party in pursuing such cure, plus interest thereon from the date of demand at the rate of 12% per annum.

7. Dispute Resolution. Any dispute under this Agreement shall, as a condition precedent to litigation, first be subject to the dispute resolution procedures as set forth below in this Section 7.

7.1 Negotiated Settlement. The first step in the dispute resolution procedures shall be an attempt to negotiate a settlement of the dispute, as follows:

(a) A Party desiring to initiate settlement negotiations (the “Initiating Party”) may do so by giving written notice to the other Party (the “Responding Party”) of the basis for the dispute, provided that the Initiating Party shall use commercially reasonable efforts to furnish the Responding Party, as expeditiously as possible, with notice of any dispute once such dispute is recognized, and shall cooperate with the Responding Party in an effort to mitigate the alleged or potential damages, delay or other adverse consequences arising out of the condition which is the cause of such dispute.

(b) The Initiating Party shall, within five business days after giving written notice to the Responding Party of the basis for the dispute, prepare and provide to the Responding Party a written, detailed summary of the basis for the dispute, together with all facts, documents, backup data and other information reasonably available to the Initiating Party that support the Initiating Party’s position in the dispute.

(c) The Initiating Party shall designate and make any of its employees or agents having knowledge of the dispute available to the Responding Party to respond to questions of the Responding Party.

(d) Within 14 days after the Initiating Party gives notice of a dispute, (i) the Responding Party shall prepare and provide to the Initiating Party a written, detailed summary, together with all facts, documents, backup data and other information reasonably available to the Responding Party that support the Responding Party’s position in the dispute, and (ii) employees or agents of the Parties who have authority to settle the dispute, along with other parties having knowledge of or an interest in the dispute, shall meet at a mutually acceptable time and place in Cincinnati, Ohio, in an effort to compromise and settle the dispute.

7.2 Mediation. Unless delay in initiating or prosecuting a claim in litigation would irrevocably prejudice a Party, any dispute which is not resolved by direct discussions and negotiations as provided in Section 7.1 shall be submitted to mediation under the Commercial Mediation Procedures of the American Arbitration Association or such other rules as the Parties may agree to use. If the Parties cannot agree on the selection of a mediator within ten days of the request for mediation, any Party may immediately request the appointment of a mediator in accordance with the governing mediation rules. Mediation shall occur at any location in Cincinnati, Ohio that the mediator may designate. Master Developer, on the one hand, and the County, on the other hand, shall each be responsible for 50% of the mediation expenses. The Parties shall conclude mediation proceedings under this Section 7.2 within 60 days after the designation of the mediator. In the event that mediation proceedings do not resolve the dispute within such period, a Party may commence litigation with respect to the dispute.

7.3 No Prejudice. Provided the Initiating Party has complied with the requirements for giving notice of the existence of a dispute, no delay in disposing of such dispute while the Parties pursue the dispute resolution procedures shall prejudice the rights of any Party. At the request of the Initiating Party or the Responding Party, the Parties shall enter into an

agreement to toll the statute of limitations with respect to the subject matter of a dispute while the Parties pursue the dispute resolution procedures.

8. Estoppel Certificates. Each Party (a “Responding Party”) shall, from time to time, within ten business days after written request by another Party (a “Requesting Party”), execute and deliver to the Requesting Party and/or such third party designated by the Requesting Party, a statement in writing certifying (a) that (except as may be otherwise specified by the Responding Party) (i) this Agreement is in full force and effect and unmodified, (ii) the Responding Party is not in default in the performance or observance of its obligations under this Agreement, and (iii) to the Responding Party’s actual knowledge, the Requesting Party is not in default in the performance or observance of the Requesting Party’s obligations under this Agreement, and (b) as to such other factual matters as the Requesting Party may reasonably request about this Agreement, the status of any matter relevant to this Agreement, or the performance or observance of the provisions of this Agreement.

9. Notices. Any notice to be given under this Agreement shall be in writing, shall be addressed to the Party to be notified at the address set forth below or at such other address as each Party may designate for itself from time to time by notice hereunder, and shall be deemed to have been given upon the earlier of (a) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (b) receipt of notice given by telecopy or personal delivery:

If to the County: Hamilton County Administrator
 138 East Court Street, Room 603
 Cincinnati, OH 45202
 Telecopy: (513) 946-4444
 Telephone: (513) 946-4400

with a copy to:

Hamilton County Prosecutor’s Office
230 E. Ninth Street, 8th Floor
Cincinnati, Ohio 45202
Attn.: Roger E. Friedmann, Esq.
Telecopy: 513-946-3018
Telephone: 513-946-3025

and

Vorys, Sater, Seymour and Pease LLP
221 East Fourth Street, Suite 2000
Cincinnati, Ohio 45202
Attn: Thomas L. Gabelman, Esq.
Telecopy: 513-852-7843
Telephone: 513-723-8580

If to Master
Developer:

Riverbanks Renaissance, LLC
c/o Carter & Associates Commercial Services L.L.C.
171 17th Street, Suite 1200
Atlanta, GA 30363
Attn: A. Trent Germano, Executive Vice President
Telecopy: (404) 888-4311
Telephone: (404) 888-3156

and

Riverbanks Renaissance, LLC
c/o Harold A. Dawson Co., Inc.
191 Peachtree Street, Suite 805
Atlanta, GA 30303
Attn: Jerome Hagley, Executive Vice President
Telecopy: (404) 347-8040
Telephone: (404) 446-3561

with a copy to:

Greenberg Traurig
The Forum, Suite 400
3290 Northside Parkway
Atlanta, GA 30327
Attn: Ernest LaMont Greer, Esq.
Telecopy: (678) 553-2212
Telephone: (678) 553-2420

and

Kilpatrick Stockton LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530
Attn: M. Andrew Kauss, Esq.
Telecopy: (404) 541-3262
Telephone: (404) 815-6620

10. No Partnership. This Agreement shall not be construed to create a partnership or joint venture between the Parties.

11. Governing Law. The internal laws of the State of Ohio shall govern as to the interpretation, validity and effect of this Agreement, without regard to such state's conflict of law principles.

12. **Jurisdiction.** The Parties submit to jurisdiction in the State of Ohio and agree that any judicial proceeding brought by or against a Party with respect to this Agreement shall be brought in any state or federal court located in Hamilton County, Ohio, which shall have exclusive jurisdiction of controversies arising under this Agreement (subject to Section 7).

13. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law, but only if and to the extent such enforcement would not materially and adversely frustrate the Parties' essential objectives as expressed herein.

14. **Diligent Performance.** With respect to any duty or obligation imposed on a Party by this Agreement, unless a time limit is specified for the performance of such duty or obligation, it shall be the duty or obligation of such Party to commence and perform the same in a diligent and workmanlike manner and to complete the performance of such duty or obligation as soon as reasonably practicable after commencement of performance.

15. **Entirety of Agreement.** This Agreement and each Joinder Agreement embody the entire agreement and understanding of the Parties with respect to the use and operation of the Parking Facilities, and supersede all prior agreements, correspondence, arrangements and understandings relating thereto other than the Third Party Agreements. This Agreement may be amended or modified only by a written instrument signed by the County and Master Developer; provided that no amendment or modification to this Agreement which materially adversely affects the rights of any Developer under a Joinder Agreement executed prior to such amendment or modification shall be binding on such Developer without its written consent thereto or approval or ratification thereof.

16. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, successors in title and assigns (including but not limited to each Developer, as this Agreement relates to such Developer's Development Lot), and shall run with the land.

17. **Captions.** The captions in this Agreement are included for purposes of convenience only and shall not be considered a part of this Agreement or used in construing or interpreting any provision hereof.

18. **Exhibits.** All exhibits to this Agreement are incorporated herein by reference and made a part hereof, to the same extent as if set out in full herein.

19. **No Waiver.** No waiver of any condition or covenant of this Agreement to be satisfied or performed by a Party shall be deemed to imply or constitute a further waiver of the same or any like condition or covenant, and nothing contained in this Agreement nor any act of a Party, except a written waiver signed by such Party, shall be construed to be a waiver of any condition or covenant to be performed by the other Party.

20. Construction. No provisions of this Agreement shall be construed against a Party by reason of such Party having drafted such provisions.

21. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original document.

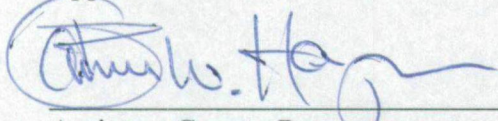
22. Third Party Beneficiaries. This Agreement may be enforced only by the Parties, their successors, successors in title and assigns, and Mortgagees. Except as set forth in the immediately preceding sentence, there shall be no third party beneficiaries of this Agreement.

23. Release from Liability. Each of the County, as owner of all or any portion of any Banks Parking Facility Lot, and each Developer, as owner of a Development Lot, and each subsequent owner of an interest in all or any portion of a Banks Parking Facility Lot or any Development Lot, shall be bound by this Agreement with respect to such Banks Parking Facility Lot or Development Lot, as applicable, only during the period of its ownership of an interest therein, shall be liable only for the obligations, liabilities or responsibilities under this Agreement that accrue during such period with respect to such Banks Parking Facility Lot or Development Lot, and, upon the conveyance or transfer (other than as security) of its interest therein, shall be released from any and all liabilities and obligations under this Agreement with respect to the Banks Parking Facility Lot (or portion thereof) or Development Lot accruing after the date the instrument of transfer is recorded in the Office of the Recorder of Hamilton County, Ohio.

[EXECUTION ON FOLLOWING PAGE]

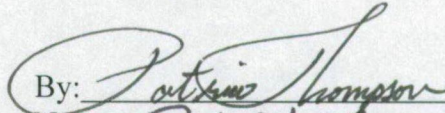
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

Approved as to Form:

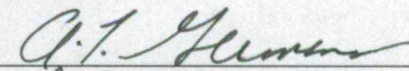


Assistant County Prosecutor

**THE BOARD OF COUNTY
COMMISSIONERS OF HAMILTON
COUNTY, OHIO**

By: 
Name: Patrick Thompson
Title: County Administrator

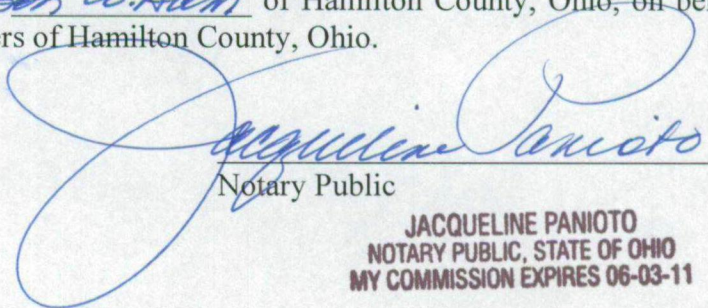
RIVERBANKS RENAISSANCE, LLC

By: 
Name: A.T. Germano
Title: VICE CHAIRMAN

STATE OF OHIO
COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 13th day of December, 2007, by Patrick Thompson Co. Adm. of Hamilton County, Ohio, on behalf of The Board of County Commissioners of Hamilton County, Ohio.



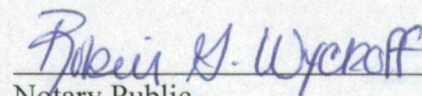

Notary Public
JACQUELINE PANIOTO
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 06-03-11

STATE OF Ohio
COUNTY OF Franklin, SS:

The foregoing instrument was acknowledged before me this 7th day of December, 2007, by A.T. Germano, vice chairman of Riverbanks Renaissance, LLC, a Delaware limited liability company, on behalf of the limited liability company.




ROBIN G. WYCKOFF
ATTORNEY AT LAW
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.


Notary Public

This instrument was prepared by: Donald J. Shuller
Vorys, Sater, Seymour and Pease LLP
221 East Fourth Street, Suite 2000
Cincinnati, OH 45202

CERTIFICATION OF AVAILABILITY OF FUNDS

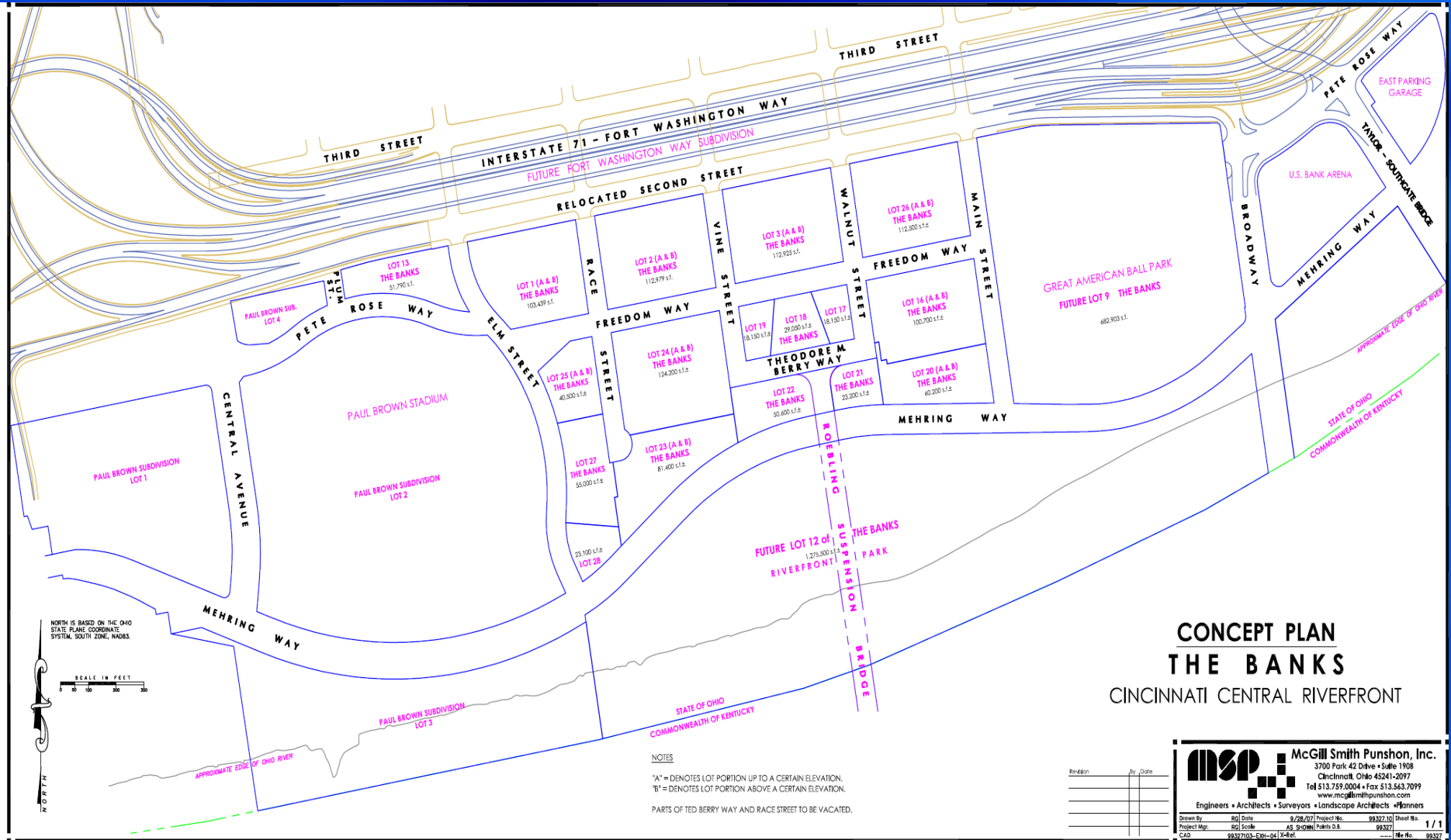
As fiscal officer for the County of Hamilton, Ohio, in accordance with Section 5705.44 of the Ohio Revised Code, I hereby certify that funds sufficient to meet the obligations of the County in the foregoing agreement for fiscal year 2007 have been lawfully appropriated for the purposes thereof, and are available in the treasury or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. (No funds are required under this agreement for fiscal year 2007. As provided in Section 5705.44, amounts which shall become payable during subsequent fiscal years, as reasonably estimated, are to be included in the annual appropriation measure for each respective fiscal year as a fixed charge.)

By: 
Name: _____
Title: COUNTY AUDITOR

LIST OF EXHIBITS

- Exhibit A: Proposed Replat
- Exhibit B.1: Parking Facilities Site Plan (depicting Banks Parking Facilities [consisting of Phase 1 and Future Phases] and Existing Parking Facilities [the parking facilities other than Phase 1 and Future Phases])
- Exhibit B.2: Depiction of potential additional parking facilities that may be incorporated into the Banks Parking Facilities
- Exhibit C.1: Floor Plan for Phase 1 (depicting the Dedicated Parking Spaces upon completion of the "Phase 1A Improvements" as defined in the Master Development Agreement)
- Exhibit C.2: Floor Plans (two levels) for Phase 1 (depicting the Dedicated Parking Spaces upon completion of both the "Phase 1A Improvements" and "Phase 1B Improvements" as defined in the Master Development Agreement)
- Exhibit D: Form of Joinder Agreement

Proposed Replat PFOA – Exhibit A

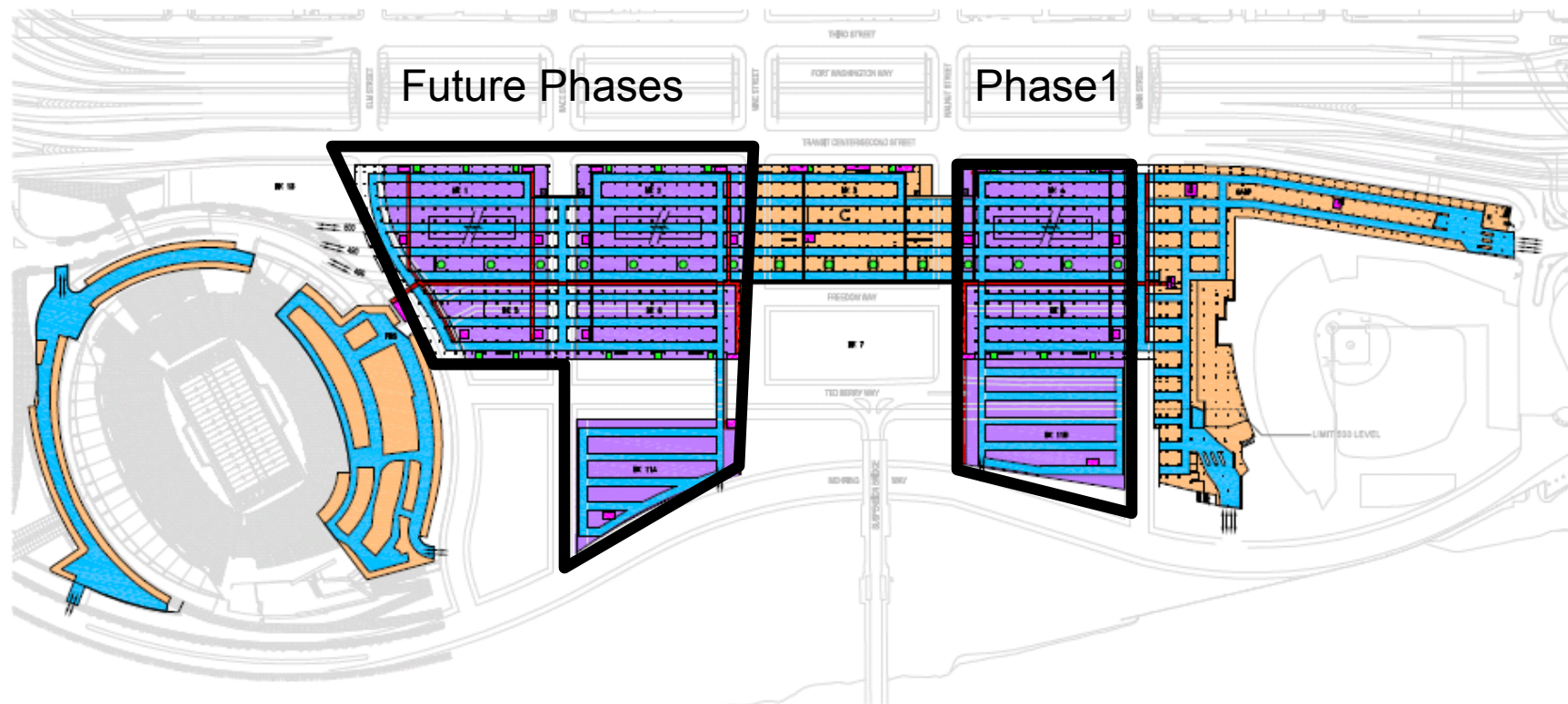


Parking Garage Facilities

MPFOEA Exhibit B.1

RIVERFRONT PARKING MASTER PLAN

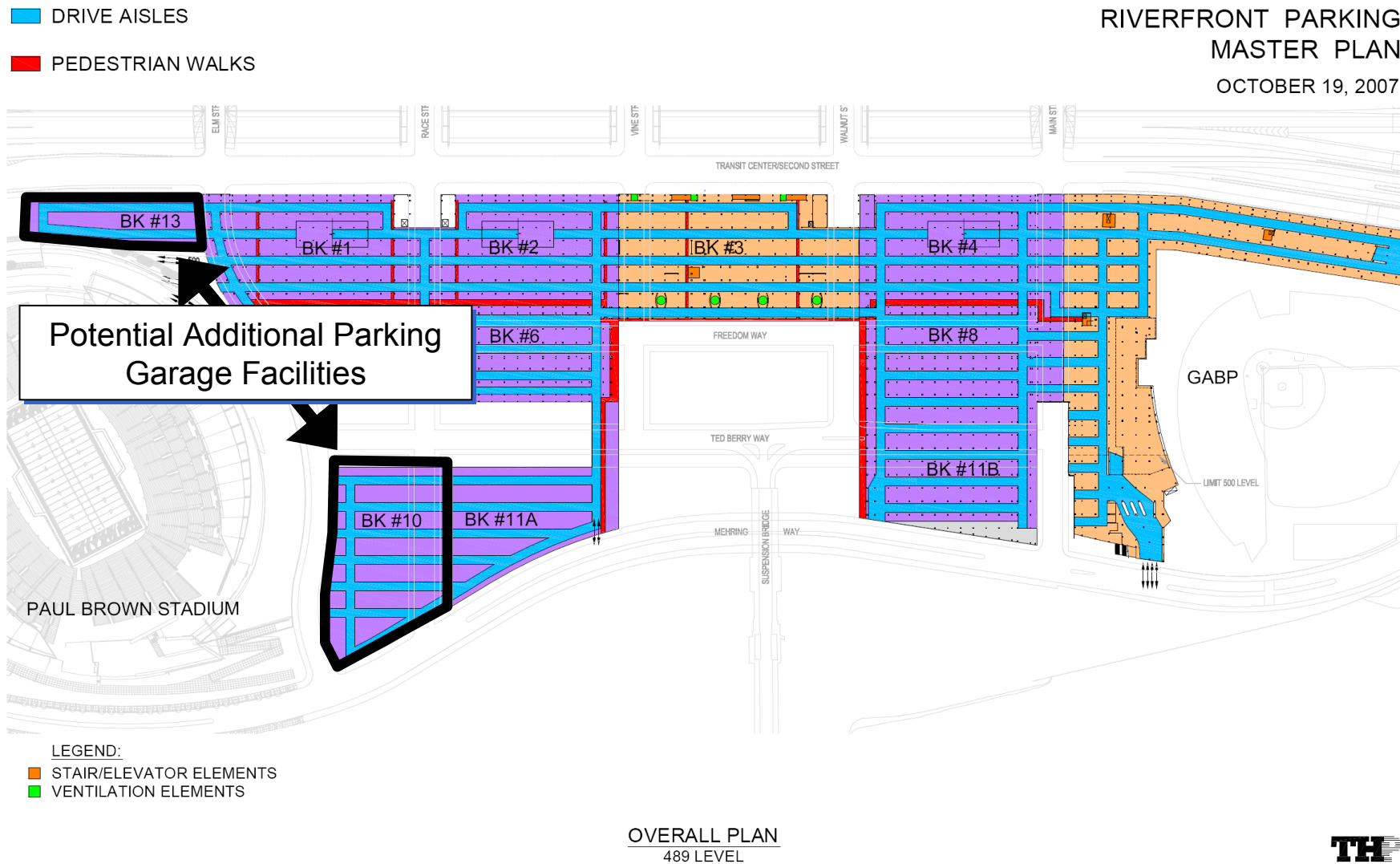
FEBRUARY 28, 2007



Potential Additional Parking Garage Facilities

MPFOEA Exhibit B.2

RIVERFRONT PARKING
MASTER PLAN
OCTOBER 19, 2007



Floor Plan for Phase 1A

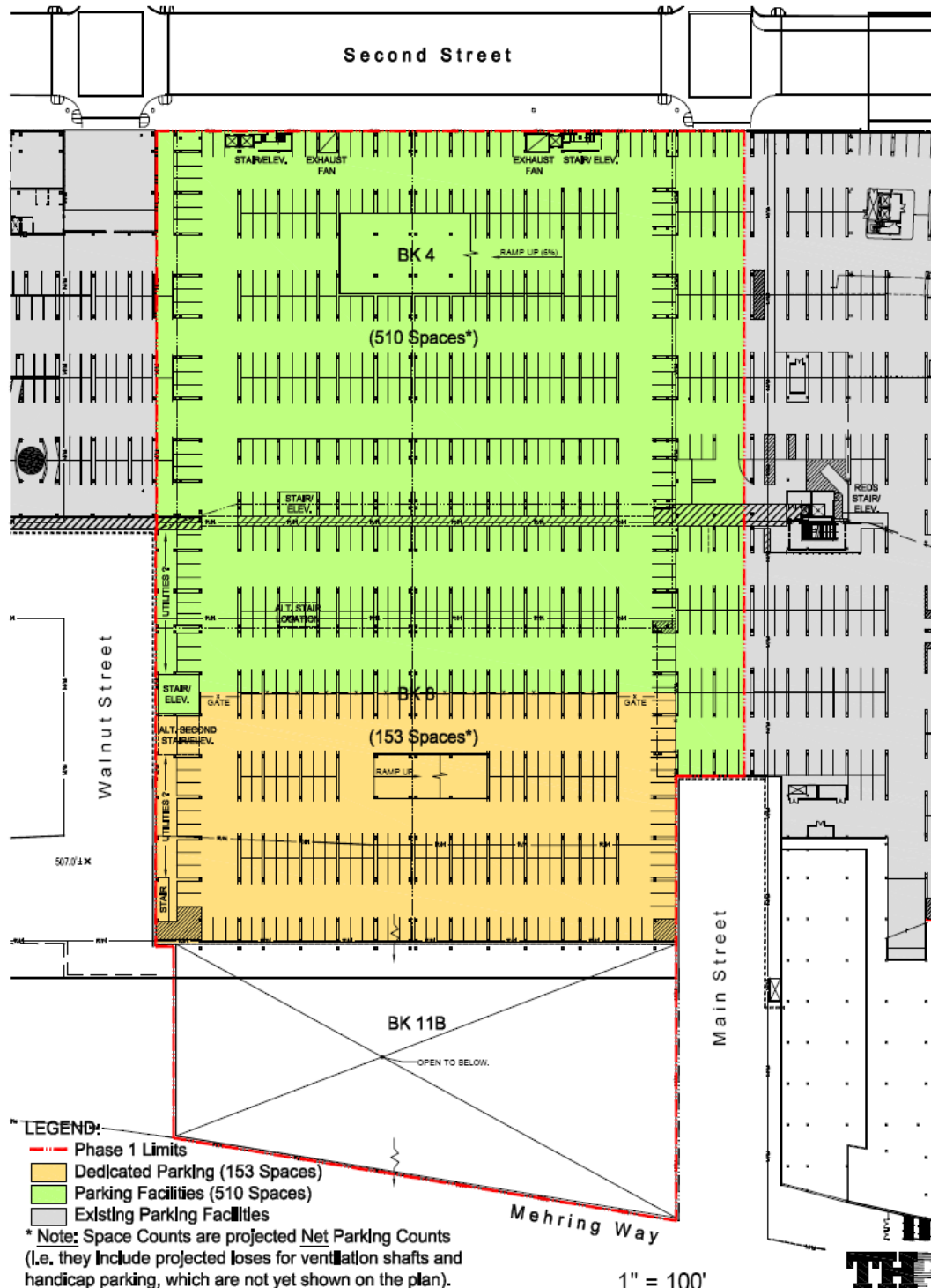
Parking Facilities

MPFOEA Exhibit C.1

Parking Facilities Plan (500)

The Banks - Phase 1A

10/17/07



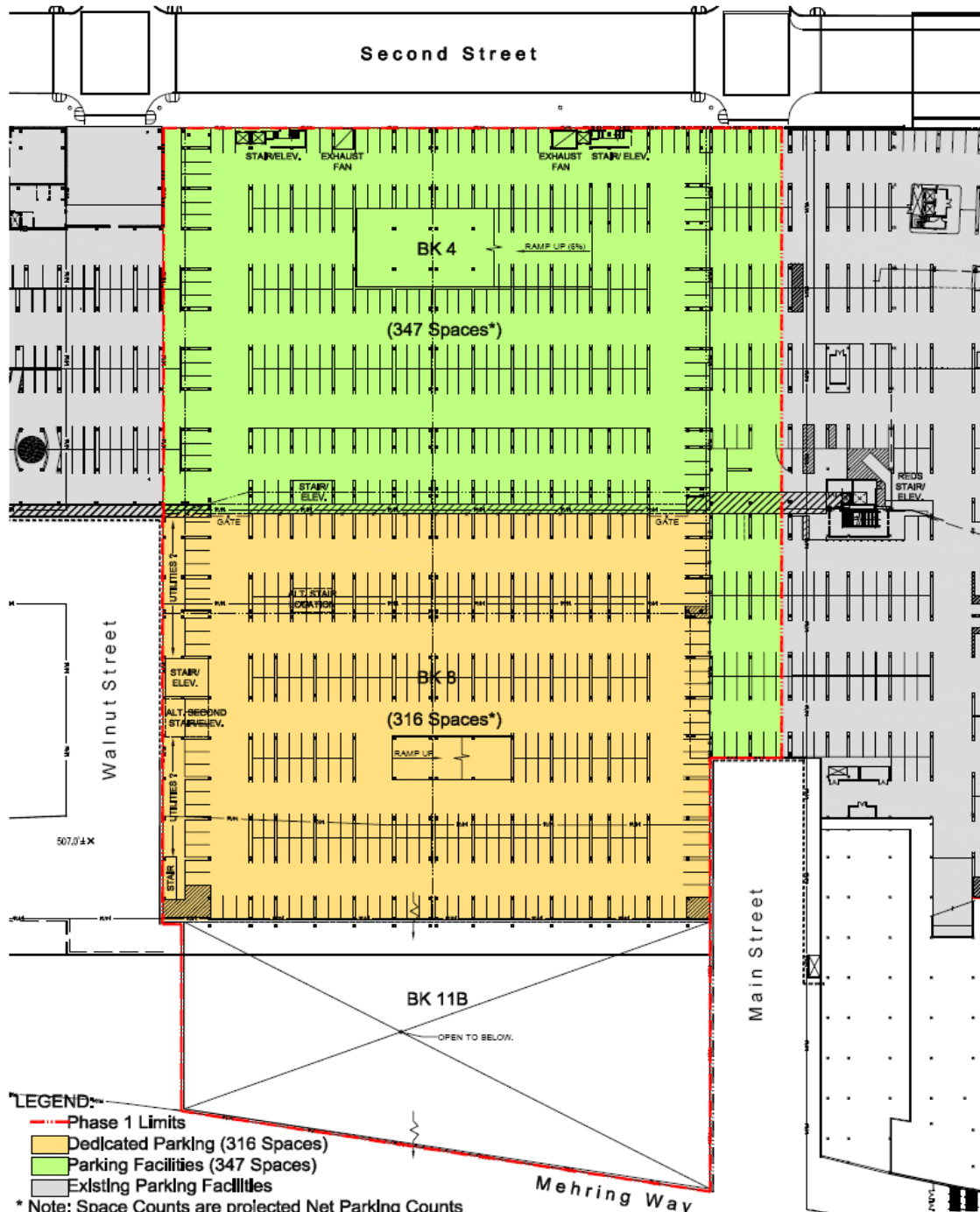
Floor Plan for Phase 1B Parking Facilities

MPFOEA Exhibit C.2 (Sheet 1 of 2)

Parking Facilities Plan (500)

The Banks - Phase 1B

10/17/07



1" = 100'

THP

Floor Plan for Phase 1B

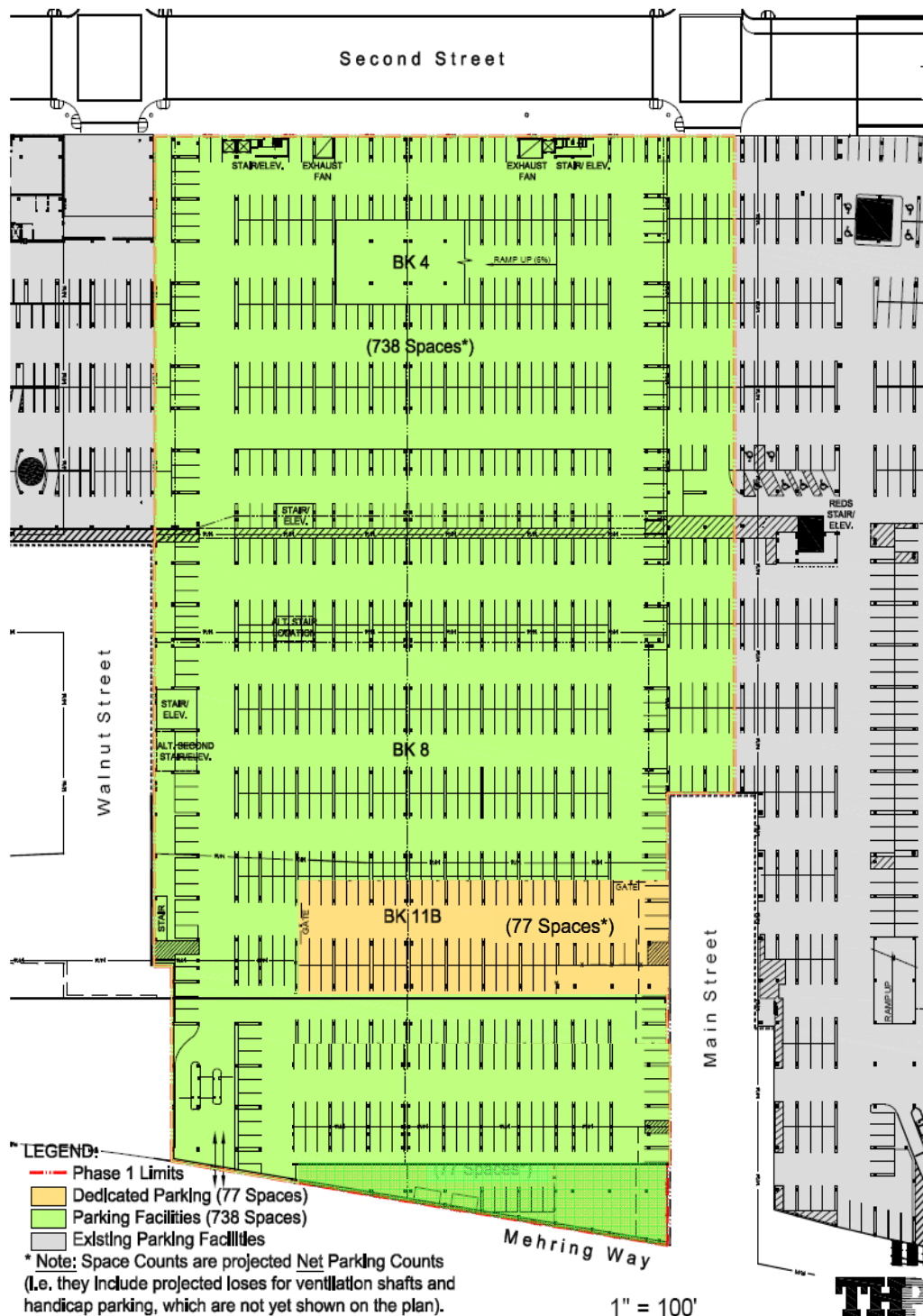
Parking Facilities

MPFOEA Exhibit C.2 (Sheet 2 of 2)

Parking Facilities Plan (489)

The Banks - Phase 1B

10/17/07



Form of Joinder Agreement

MPFOEA D

**EXHIBIT D
TO
MASTER PARKING FACILITIES OPERATING AND EASEMENT AGREEMENT**

JOINDER AGREEMENT

THIS JOINDER AGREEMENT (this "Agreement") is made as of the ____ day of _____, 20____, by THE BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, OHIO, acting for and on behalf of Hamilton County, Ohio, a political subdivision of the State of Ohio (the "County"), RIVERBANKS RENAISSANCE, LLC, a Delaware limited liability company ("Master Developer"), and [NAME OF DEVELOPER], a [TYPE OF ENTITY] ("Developer").

Recitals

A. The County and Master Developer are parties to a Master Parking Facilities Operating and Easement Agreement (the "Parking Agreement"), dated November ____, 2007, recorded in Official Record Book ____, Page ____, Recorder's Office, Hamilton County, Ohio. All capitalized terms used in this Agreement which are defined in the Parking Agreement and not otherwise defined in this Agreement shall have the meanings given in the Parking Agreement.

B. On or about this date, the City is conveying to Developer the following real property (the "Development Lot"):

[INSERT LEGAL DESCRIPTION]

The Development Lot is a "Development Lot," as defined in the Parking Agreement.

C. The County, Master Developer and Developer are entering into this Agreement pursuant to Section 4.7 of the Parking Agreement.

Statement of Agreement

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County, Master Developer and Developer hereby agree as follows:

1. Joinder. Developer joins in the Parking Agreement with respect to the Development Lot and assumes the obligations of Master Developer under the Parking Agreement with respect to the Development Lot. From and after the date of this Agreement, Developer shall be subject to, and entitled to the benefit of, the Parking Agreement with respect to the Development Lot, and shall be substituted for Master Developer under the Parking Agreement as the Parking Agreement relates to the Development Lot. Master Developer shall

have no rights or obligations under the Parking Agreement with respect to the Development Lot accruing from and after the date of this Agreement.

INCLUDE FOLLOWING PARAGRAPH IF DEVELOPMENT LOT WILL INCLUDE BANKS RESIDENTIAL SPACE TO WHICH DEDICATED PARKING SPACES ARE TO BE ALLOCATED:

2. Easements for Dedicated Parking Spaces. Master Developer allocates to Developer, for the benefit of the Development Lot, [NUMBER] Dedicated Parking Spaces, as depicted in Exhibit A hereto. The County grants to Developer: (i) an exclusive, perpetual easement, for the benefit of the Development Lot, to use such Dedicated Parking Spaces allocated by Master Developer to Developer, for parking by users of Banks Residential Space located on or within the Development Lot; and (ii) a non-exclusive, perpetual easement, for the benefit of the Development Lot, in, on, over and across portions of the Public Parking Facilities designed therefor for vehicular and pedestrian access to and from such Dedicated Parking Spaces by those entitled to use such Dedicated Parking Spaces. Such easements shall be subject to the terms and conditions set forth in Section 4.1 and other applicable provisions of the Parking Agreement.

INCLUDE FOLLOWING PARAGRAPH IF DEVELOPMENT LOT WILL INCLUDE BANKS OFFICE SPACE:

3. Easements for Available Office Parking Spaces. The County grants to Developer: (i) a non-exclusive, perpetual easement, for the benefit of the Development Lot, to use Designated Office Parking Spaces made available by the County pursuant to Section 4.2(a) of the Parking Agreement for parking by users of Banks Office Space on or within the Development Lot; (ii) a non-exclusive, perpetual easement, for the benefit of the Development Lot, to use Available Office Parking Spaces, other than Designated Office Parking Spaces, made available by the County pursuant to Section 4.2(a) of the Parking Agreement for parking by users of Banks Office Space on or within the Development Lot; and (iii) a non-exclusive, perpetual easement, for the benefit of the Development Lot, in, on, over and across portions of the Public Parking Facilities designed therefor for vehicular and pedestrian access to and from such Available Office Parking Spaces (including Designated Office Parking Spaces) by those entitled to use such Available Office Parking Spaces. Such easements shall be subject to the terms and conditions set forth in Sections 4.2, 4.5 and 4.6 and other applicable provisions of the Parking Agreement. At the request of the County or Developer at any time after completion of construction of the Banks Office Space to be located on or within the Development Lot, the County and Developer shall confirm in writing the Square Feet of such Banks Office Space.

INCLUDE FOLLOWING PARAGRAPH IF DEVELOPMENT LOT WILL INCLUDE BANKS RETAIL SPACE:

4. Easements for Short-Term Parking. The County grants to Developer: (i) a non-exclusive, perpetual easement, for the benefit of the Development Lot, to use the Short-Term Parking Spaces designated by the County pursuant to Section 4.3(a) of the Parking Agreement for Short-Term Parking; and (ii) a non-exclusive, perpetual easement, for the benefit of the

Development Lot, in, on, over and across portions of the Public Parking Facilities designed therefor for vehicular and pedestrian access to and from the Short-Term Parking Spaces by those entitled to use the Short-Term Parking Spaces. Such easements shall be subject to the terms and conditions set forth in Sections 4.3, 4.5 and 4.6 and other applicable provisions of the Parking Agreement. At the request of the County or Developer at any time after completion of construction of the Banks Retail Space to be located on or within the Development Lot, the County and Developer shall confirm in writing the Square Feet of such Banks Retail Space.

[GENERAL INCORPORATION OF PARKING AGREEMENT BY REFERENCE]

5. Notice Address. The notice address of Developer for purposes of Section 9 of the Parking Agreement shall be the following, or such other address as Developer may designate for itself from time to time by notice given in accordance with Section 9 of the Parking Agreement:

Attn: _____
Telecopy: _____
Telephone: _____

6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, and shall run with the land.

7. Captions. The captions in this Agreement are included for purposes of convenience only and shall not be considered a part of this Agreement or used in construing or interpreting any provision hereof.

8. Exhibits. All exhibits to this Agreement are incorporated herein by reference and made a part hereof, to the same extent as if set out in full herein.

9. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original document.

IN WITNESS WHEREOF, the County, Master Developer and Developer have executed this Agreement as of the date first set forth above.

Approved as to Form:

**THE BOARD OF COUNTY
COMMISSIONERS OF HAMILTON
COUNTY, OHIO**

Assistant County Prosecutor

By: _____
Name: _____
Title: _____

RIVERBANKS RENAISSANCE, LLC

By: _____
Name: _____
Title: _____

[DEVELOPER]

By: _____
Name: _____
Title: _____

STATE OF OHIO
COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____, _____ of Hamilton County, Ohio, on behalf of
The Board of County Commissioners of Hamilton County, Ohio.

Notary Public

STATE OF _____
COUNTY OF _____, SS:

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____, _____ of Riverbanks Renaissance, LLC, a
Delaware limited liability company, on behalf of the limited liability company.

Notary Public

STATE OF _____
COUNTY OF _____, SS:

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____, _____ of _____,
a _____, on behalf of the _____.

Notary Public

This instrument was prepared by: Donald J. Shuller
Vorys, Sater, Seymour and Pease LLP
221 East Fourth Street, Suite 2000
Cincinnati, OH 45202

EXHIBIT A – Dedicated Parking Spaces (if applicable)